



## Family-Based Immigration: Now and Under S.744

		<b>Family-Based Immigration under Current Law</b>	<b>Family-Based Immigration under S.744 (<i>changes in bold + italics</i>)</b>
<b>Non-Preference Category</b>	<i>Immediate Relatives</i>	Spouse, Parent, and Children of USC	- Spouse, Parent, and Children of USC - <b><i>Spouse and Children of LPR</i></b>
<b>Preference Categories</b>	<i>1</i>	Unmarried Sons and Daughters of USC	Unmarried Sons and Daughters of USC
	<i>2A</i>	Spouses and Children of LPR	<b><i>Moved to Immediate Relatives</i></b>
	<i>2B</i>	Unmarried Sons and Daughters of LPR	Unmarried Sons and Daughters of LPR
	<i>3</i>	Married Sons and Daughters of USC	Married Sons and Daughters <b><i>under 31 at the time of filing</i></b> of petition by USC parent
	<i>4</i>	Brothers and Sisters of USC	<b><i>Eliminated</i></b>

*USC = U.S. Citizen; LPR = Lawful Permanent Resident*

### **Merit-Based Points Track 1 (section 2301 under S.744)**

- For fiscal years 2015 through 2017, the merit-based immigrant visas shall be available for immigrants that are described in section 203(b)(3) as “skilled workers, professionals, and other workers.”
- Starting with fiscal year 2018 and onward, the visas will be allocated as follows: 50% shall be available to applicants with the highest number of points under tier 1 and 50% to the applicants with the highest number of points under tier 2.
- Tier 1 Allocation of Points:
  - Education (may receive points for only one of the following three)
    - 15 pts. = Doctorate degree
    - 10 pts. = Master’s degree
    - 5 pts. = Bachelor’s degree
  - Employment Experience (cannot receive more than 20 points from this section)

- 3 pts. for each year lawfully employed in a U.S. zone 5 occupation<sup>1</sup>
  - 2 pts. for each year lawfully employed in a U.S. zone 4 occupation
- Employment related to Education
  - In the United States and either employed full-time or has an offer of full-time employment in a field related to his/her education
    - 10 pts. = if employment is in a zone 5 occupation
    - 8 pts. = if employment is in a zone 4 occupation
- Entrepreneurship
  - 10 pts. = entrepreneur that employs at least two employees in a zone 4 or zone 5 occupation
- High Demand Occupation
  - 10 pts. = employed full-time in the United States or has an offer of full-time employment in a high demand tier 1 occupation
- Civic Involvement
  - 2 pts. = engaged in a significant amount of community service
- English Language
  - 10 pts. = scored 80 or more on the Test of English as a Foreign Language
- Siblings and Married Sons and Daughters of U.S. Citizens (USC)
  - 10 pts. = sibling of a USC *or* is over 31 years of age and is the married son or daughter of a USC
- Age
  - 8 pts. = between 18 and 24 years old
  - 6 pts. = between 25 and 32 years old
  - 4 pts. = between 33 and 37 years old
- Country of Origin
  - 5 pts. = national of a country of which fewer than 50,000 nationals were lawfully admitted to permanent residence in United States in the previous 5 years
- Tier 2 Allocation of Points:
  - Employment Experience (cannot receive more than 20 points from this section)
    - 2 pts. for each year lawfully employed in the United States
  - Special Employment Criteria
    - Employed full-time in the United States or has an offer of full-time employment
      - 10 pts. = in a high demand tier 2 occupation
      - 10 pts. = in a zone 1, 2, or 3 occupation
  - Caregiver

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<sup>1</sup> Information on occupation zones 1-5 is available here: <http://www.onetonline.org/help/online/zones>.

- 10 pts. = is or has been a primary caregiver
  - Exceptional Employment Record
    - 10 pts. for an exceptional employment record (may consider promotions, longevity, increase in pay, participation in safety training, and changes in occupations from a lower job zone to a higher job zone)
  - Civic Involvement
    - 2 pts. = demonstrates significant civic involvement
  - English Language
    - 10 pts. = demonstrates English proficiency as determined by a standardized test
    - 5 pts. = demonstrates English knowledge by a standardized test
  - Siblings and Married Sons and Daughters of U.S. Citizens (USC)
    - 10 pts. = sibling of a USC *or* is over 31 years of age and is the married son or daughter of a USC
  - Age
    - 8 pts. = between 18 and 24 years old
    - 6 pts. = between 25 and 32 years old
    - 4 pts. = between 33 and 37 years old
  - Country of Origin
    - 5 pts. = national of a country of which fewer than 50,000 nationals were lawfully admitted to permanent residence in United States in the previous 5 years
- Application Procedure:
  - Submit application to USCIS for a merit-based immigrant visa. Submissions will occur at least 3 years after the date of enactment of this Act and will take place during each 30-day period beginning on October 1<sup>st</sup>.
  - Pay fee of \$1,500 + application fee.
- *An RPI (granted under 245B) is **not** eligible to receive a merit-based immigrant visa under section 201(e). An immigrant who has a petition pending or approved in another immigrant category under this or section 201 **may not** apply for a merit-based visa.*

### **Merit-Based Track 2 (section 2302 under S.744)**

- In addition to any immigrant visa made available under the INA (as amended), the Secretary of State shall allocate merit-based immigrant visas. Those granted a merit-based immigrant visa shall be granted lawful permanent residence.
- Beginning on October 1, 2014, the following immigrants will be eligible for a merit-based immigrant visa:
  - *Employment-based Immigrants:*

- Beneficiaries of a petition filed before enactment of this Act if the visa was not issued within 5 years after the date of filing.
  - *Family-sponsored Immigrants (under section 203(a) of the INA):*
    - Beneficiaries of a petition filed before enactment if the visa was not issued within 5 years after the date of filing; *or*
    - Beneficiaries of a 3<sup>rd</sup> or 4<sup>th</sup> preference category petition filed after enactment if the visa was not issued within 5 years after the date of filing.
  - *Long-term Immigrant Workers*
    - Immigrants lawfully present in the United States for at least 10 years in a status that allows for employment authorization (except W-visa workers).
- *Family-based immigrant petitions filed prior to the date of enactment (except for spouses and children of LPRs):* In each of the fiscal years 2015 through and including 2021 (October 2014 – September 2021) the Secretary of State shall allocate visas each fiscal years equal to 1/7 of the difference between family petitions filed prior to enactment and the employment petitions filed before enactment.
  - Family-based petitions filed before enactment shall be issued without regard to a per country limitation and will be processed in the order received.
- *For petitions in the 3<sup>rd</sup> and 4<sup>th</sup> preference categories that were filed after enactment,* in fiscal year 2022, the Secretary of State shall allocate the number of visas equal to 1/2 of the applicants in that pool whose visas had not been issued by Oct. 1, 2021. In fiscal year 2023, the Secretary shall allocate the number of merit-based immigrant visas equal to the number of immigrants whose visas had not been issued by October 1, 2022. Petitions will be processed in the order filed.
- *Grounds of Inadmissibility* – for immigrants applying under this section, section 212(a)(9)(B) of the INA (3-and 10-year unlawful presence bars) shall not apply.
- Beginning in fiscal year 2029, long-term immigrant workers eligible for adjustment of status, must be lawfully present in an employment authorized status for 20 years prior to filing an adjustment application.
- *Other changes under section 2302:* Spouses and children of LPRs will be reclassified as immediate relatives (*see also section 2305*).

#### **Allocation of Immigrant Visas (section 2307 under S.744)**

- Unmarried sons and daughters of USC shall be allocated 35% of the worldwide level of visas, plus the number of unused visas for the other two categories.
- Married sons or daughters of USC who are 31 years of age or younger at the time of filing shall be allocated 25% of the worldwide level of visas.
- Unmarried sons and daughters of LPRs shall be allocated 40% of the worldwide level of visas.
- Amendments in this section shall take effect on the first day of the first fiscal year that begins at least 18 months following the date of the enactment.